

October 18, 2004

Hon. Sandra Feuerstein
United States District Court
Eastern District of New York
Long Island Federal Courthouse
100 Federal Plaza
P.O. Box 9014
Central Islip, New York 11722

Re: Perez, et. al. v. Posse Comitatus, et. al.
CV 01-6201(JS)(WW)

Dear Judge Feuerstein:

As Your Honor is aware I am *pro bono publico* counsel to Mr. Wagner who remains incarcerated. As of May, 2004 we have submitted our brief in the Appellate Division and await the People's response which I am hopeful of receiving by early December, 2004. We will then reply and I anticipate that oral argument may occur in April, 2005. My client is indigent and Your Honor has already granted the application to dismiss or for summary judgment as to the organizational defendants. I certainly understood Your Honor's wish not to stay discovery prior to your decision but once that decision was made, it would seem appropriate to stay the remainder of these proceedings until the defendant *Wagner* has exhausted his appellate remedies. I respectfully ask Your Honor to consider that as an application. As always, thank you for your kind attention to this matter.

Respectfully submitted,

Thomas F. Liotti (TL 4471)

TFL:el

cc: Frederick K. Brewington, Esq.
Robert DelCol, Esq.